

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

MELODY ST. GEORGE,	)	
	)	C.A. No. K09C-03-011 JTV
Plaintiff,	)	
	)	
v.	)	
	)	
ROBERT S. BENNETT,	)	
	)	
Defendant.	)	

*Submitted: March 1, 2012*

*Decided: July 24, 2012*

William D. Fletcher, Jr., Esq., Schmittinger & Rodriguez, Dover, Delaware.  
Attorney for Plaintiff.

Miranda D. Clifton, Esq., Law office of Cynthia Beam, Newark, Delaware.  
Attorney for Defendant.

*Upon Consideration of Plaintiff's  
Motion for a New Trial*  
**GRANTED**

*Upon Consideration of Defendant's  
Motion for Costs*  
**DEFERRED**

**VAUGHN, President Judge**

**ORDER**

***St. George v. Bennett***

C.A. No. K09C-03-011 JTV

July 24, 2012

Upon consideration of the plaintiff's Motion for a New Trial, the defendant's opposition, and the record of the case, it appears that:

1. In this personal injury, auto accident case, a jury found the defendant, Robert S. Bennett, negligent in a way which proximately caused injury to the plaintiff. It also found the plaintiff, Melody St. George, negligent in a way which proximately caused injury to herself. After these two findings, it apportioned the negligence between them, with 49% going to the defendant and 51% going to the plaintiff. Thus, it was a defense verdict. The plaintiff moves for a new trial.

2. When reviewing a Motion for a New Trial, the jury's verdict is entitled to "enormous deference."<sup>1</sup> Traditionally, "the court's power to grant a new trial has been exercised cautiously and with extreme deference to the findings of the jury."<sup>2</sup> In the absence of exceptional circumstances, the validity of damages determined by the jury should be presumed.<sup>3</sup> Even though a jury has great latitude, "it cannot totally ignore facts that are uncontroverted and against which no inference lies."<sup>4</sup> In *Storey v. Camper*,<sup>5</sup> the Delaware Supreme Court framed the grounds for awarding a new

---

<sup>1</sup> *Young v. Frase*, 702 A.2d 1234, 1236 (Del. 1997) (citing the Delaware Constitution, Art. IV, § 11(1)(a)).

<sup>2</sup> *Maier v. Santucci*, 697 A.2d 747, 749 (Del. 1997).

<sup>3</sup> *Littrel v. Hanby*, 1998 WL 109826 (Del. Super. Feb. 20 1998) (citing *Young*, 702 A.2d at 1236-37).

<sup>4</sup> *Haas v. Pendleton*, 272 A.2d 109, 110 (1970).

<sup>5</sup> *Storey v. Camper*, 401 A.2d 458, 465 (Del. 1979).

***St. George v. Bennett***

C.A. No. K09C-03-011 JTV

July 24, 2012

trial:

[A] trial judge is only permitted to set aside a jury verdict when in his judgment it is at least against the great weight of the evidence. In other words, barring exceptional circumstances, a trial judge should not set aside a jury verdict on such ground unless, on a review of all the evidence, the evidence preponderates so heavily against the jury verdict that a reasonable jury could not have reached the result.<sup>6</sup>

A party has an ‘unqualified right to have the jury instructed with a correct statement of the substance of the law.’ The instruction need not be perfect so long as it is ‘reasonably informative and not misleading, judged by common practices and standards of verbal communication.’ Reversal is only required where the error undermines the ‘jury's ability to intelligently perform its duty.’<sup>7</sup>

3. The accident occurred at an intersection controlled by a traffic-control signal with standard red, yellow, and green lights. The defendant was proceeding through the intersection from west to east. The plaintiff entered the intersection north bound but was making a right turn to go east. Both drivers claimed to have the green light.

4. The jury was instructed that the plaintiff’s claims of negligence against the defendant were failure to keep a proper lookout and non-compliance with the traffic

---

<sup>6</sup> *Id.* at 465.

<sup>7</sup> *Green v. St. Francis Hosp., Inc.*, 791 A.2d 731, 741 (Del. 2002) (quoting *McKenzie v. Blasetto*, 686 A.2d 160, 163 (Del. 1996)).

***St. George v. Bennett***

C.A. No. K09C-03-011 JTV

July 24, 2012

control signal in violation of 21 *Del. C.* § 4107 and 4108; careless driving in violation of 21 *Del. C.* § 4176(a); inattentive driving in violation of 21 *Del. C.* § 4176(b); excessive speed in violation of 21 *Del. C.* § 4168(a); and failing to drive at an appropriate speed when approaching and crossing an intersection in violation of 21 *Del. C.* § 4168(b).

5. The defendant's claims of negligence against the plaintiff were failure to keep a proper lookout, violations of 21 *Del. C.* §§ 4107, 4108, 4176(a), and 4176(b), which mirrored the plaintiff's claims of negligence against the defendant; and a violation of 21 *Del. C.* § 4155. The instruction from 4155, which was included in the instructions read to the jury, read as follows:

No person shall turn a vehicle at an intersection until such movement can be made safely and without interfering with other traffic.

6. The instruction from 4155 consists of two phrases which were picked out of the statute and presented as a sentence. At the prayer conference at trial, the plaintiff objected to the instruction from 4155. The plaintiff has now renewed her objection in this motion. In support of her contention that the instruction should not have been given, the plaintiff argues that where an intersection is controlled by a traffic signal, the statutes relating to traffic signals should supercede other rules of the road that may apply to traffic at an intersection not controlled by a traffic signal. She contends that 4155 applies to different types of turning movements on a roadway including intersections not controlled by traffic signals. She also contends that there are other statutes which apply to intersections but which would seem not to be

***St. George v. Bennett***

C.A. No. K09C-03-011 JTV

July 24, 2012

applicable where the intersection is controlled by a traffic control signal, such as 21 *Del C.* § 4131(b), which provides that when two vehicles enter an intersection from different highways at the same time, the driver on the right has the right of way.

7. The defendant opposes the motion and contends that the instruction from 4155 was properly given.

8. The instruction from 4155 has the appearance of a simple statement of good law. I have now come to the conclusion, upon reflection, however, that it was error to give the instruction in this case.

9. I agree with the argument advanced by the plaintiff. As mentioned, both parties claimed to have the green light. Because other grounds of negligence were alleged, the Court cannot come to a conclusion as to how the jury resolved that issue. However, although the duties of drivers approaching an intersection controlled by a traffic signal are commonly understood, the instruction may have suggested to the jury that a person making a right turn under a green light has a greater duty of care than a person going straight through the intersection under a green light. I think their duties with regard to the traffic signal are the same. I therefore conclude that it was error to give the 4155 instruction. I further conclude that the error which I now find in giving the instruction from 4155 may have undermined the jury's ability to intelligently perform its duty.

10. Therefore, the plaintiff's motion for a new trial is ***granted***. The defendant's motion for costs is ***deferred*** until after the new trial.

**IT IS SO ORDERED.**

***St. George v. Bennett***

C.A. No. K09C-03-011 JTV

July 24, 2012

/s/ James T. Vaughn, Jr.

President Judge

cc: Prothonotary  
Order Distribution  
File